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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,645	01/19/2006	Uwe Muschalik	23173	1991

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EXAMINER

TOLAN, EDWARD THOMAS

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/524,645

Applicant(s)

MUSCHALIK, UWE

Examiner

Edward Tolan

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3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrases "especially" and "usually" render the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Claim 3 recites the limitation "the pressure plate" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitations "the pressure plate" in line 2 and "the outlet funnel" in line 3. There is insufficient antecedent basis for these limitations in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Benson (2,954,121). Benson discloses an extruder for producing a curved extrusion (13) from a tool (die,D) arranged on a counterbeam (7). A force is given to a workpiece (M) by die

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riflings (10a) in order to produce curvatures (13a). The tool is provided in a pressure plate (T) that extends in a press direction along the counterbeam. A funnel (fig. 2) extends from the die exit, the die is sloped outwardly in an increasingly widening annular shape.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benson (2,954,121). Benson discloses pressure plate cylinders that move a locking plate (LP) vertically in order to lock the pressure plate in position. It would have been obvious to one skilled in the art at the time of invention to locate the cylinders in a horizontally acting position depending upon spatial considerations of the workroom environment or in order to create leverage and provide a greater locking strength for the locking plate.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson (2,954,121) in view of Kleiner et al. (6,634,200).

Benson discloses an extruder for producing a curved extrusion (13) from a tool (die, D) arranged on a counterbeam (7). A force is given to a workpiece (M) by die riflings (10a) in order to produce curvatures (13a). The tool is provided in a pressure plate (T) that extends in a press direction along the counterbeam. A funnel (fig. 2)

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extends from the die exit, the die is sloped outwardly in an increasingly widening annular shape.

Benson does not disclose that the extrusion is bent out of a horizontal plane in relation to a press axis. Kleiner teaches that it is known to provide a die means (1,2) within a pressure plate (6) for the purpose of producing an extruded profile into a curved shape by external forces. It would have been obvious to one skilled in the art at the time of invention to substitute the die of Kleiner for the die of Benson in order to produce extrusions with bent profiles.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Ed Tolan whose telephone number is 571-272-4525. FAX communications should be sent to 571-273-8300.

EDTOLAN  
PRIMARY EXAMINER  
